

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL NO. 644 OF 1984

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of
the judgment ?

4 Whether this case involves a substantial question of
law as to the interpretation of the Constitution of
India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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GUJARAT STATE ROAD TRANSPORT CORPORATION - Appellant(s)

Versus

KANTABEN BABUBHAI GAJJAR & ORS. - Respondent(s)

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Appearance :

Ms. Jyoti Mehta with Shri Hardik C. Rawal for Appellant(s).

Shri N.S. Sheth for Respondent(s) : 1 - 5.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 13/06/2007

ORAL JUDGMENT

1. The appellant-opponent, Gujarat State Road Transport Corporation, has filed the present appeal being aggrieved by the award dated 28th June, 1983 made by the learned Member, Motor Accident

Claims Tribunal (Main), Ahmedabad (Rural), in Motor Accident Claim Application No.419 of 1981, awarding a sum of Rs.72,200/- with 6% interest per annum in favour of the respondents.

The learned Tribunal below though awarded a sum of Rs.72,200/-, but, the appellant has confined the challenge to the sum of Rs.51,000/- only. The challenge to the part of the amount would lead to the only conclusion that the responsibility is not challenged by the original opponent, but, it is aggrieved by the quantum only.

2. Ms. Jyoti Mehta, learned Counsel for the appellant, submits that the original claimants, Pankaj Babubhai Gajjar and Tilotama Babubhai Gajjar, son and daughter of the deceased, were major on the date of the accident, therefore, they would not be entitled to any compensation. It was also submitted that claimant No.5 - Parvatiben Vithhaldas Gajjar, mother of the deceased Babubhai Gajjar, was almost about 74 – 75 years of age, therefore, she was also not entitled to a larger amount and in her case, the multiplier of low number should have been applied.

3. Shri Seth, learned Counsel for the respondents, has vehemently opposed the appeal.

4. From the findings recorded in paragraph-10 of the judgement of the learned Tribunal, it would clearly appear that the learned Tribunal below had held the monthly income of the deceased to be Rs.600/-, out of which it deducted a sum of Rs.200/- towards the personal expenses of the deceased and came to the conclusion that the dependency could be Rs.400/- per month or Rs.4,800/- per year. The learned Tribunal below also found that the deceased was 45 years of age, therefore, application of multiplier of fourteen would be appropriate.

5. Even if I accept the argument of the learned Counsel for the appellant that the major son - Pankaj and major daughter – Tillotama would not be entitled to anything, then too, the monthly dependency for the widow Kantaben, minor son - Rajesh and widow mother - Parvatiben could not be less than Rs.400/- per month. Out of this amount, if a sum of Rs.150/- is awarded to Kantaben Babubhai Gajjar, a sum of Rs.150/- is awarded to Rajesh Babubhai Gajjar and a sum of Rs.100/- is awarded to Parvatiben Vithhaldas Gajjar, then, the dependency would be Rs.400/- per month. If the multiplier of fourteen in case of Parvatiben is reduced to some extent, then, the same is not going to make much difference in the awarded amount. In the appellate jurisdiction, the Appellate Court has to look to the findings and the manner in which the subordinate Court/Tribunal has exercised its

discretion.

6. In the opinion of this Court, the learned Tribunal below did not commit any wrong in applying the multiplier of fourteen.

7. I find no reason to interfere. The appeal is dismissed with no order as to costs.

[R.S.Garg, J.]

*kamlesh**